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**UNITED STATES DISTRICT COURT**

**FOR THE EASTERN DISTRICT OF WASHINGTON**

GARY G. LINDEBLAD,

Plaintiff,

vs.

MONSANTO COMPANY,

Defendant.

Case No.:

**COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff Gary G. Lindeblad ("Plaintiff"), by and through his undersigned counsel, brings this Complaint for damages against Defendant Monsanto Company ("Defendant" or "Monsanto"), and alleges the following:

**I. NATURE OF THE CASE**

1. This is an action for damages suffered by Plaintiff as a direct and proximate result of Defendant's negligent and wrongful conduct in connection with the design, development,

1 manufacture, testing, packaging, promoting, marketing, advertising, distribution, labeling, and/or  
2 sale of the herbicide Roundup®, containing the active ingredient glyphosate.

3 2. Plaintiff maintains that Roundup® and/or glyphosate is defective, dangerous to  
4 human health, unfit and unsuitable to be marketed and sold in commerce, and lacked proper  
5 warnings and directions as to the dangers associated with its use.

6 3. Plaintiff's injuries, like those striking thousands of similarly situated victims across  
7 the country, were avoidable.

## 8 **II. JURISDICTION AND VENUE**

9 4. This Court has jurisdiction over Defendant and this action pursuant to 28 U.S.C.  
10 § 1332 because there is complete diversity of citizenship between Plaintiff and Defendant.  
11 Defendant is incorporated in, and/or maintains its principal place of business outside of the state in  
12 which the Plaintiff reside.

13 5. The amount in controversy exceeds \$75,000, exclusive of interest and cost.

14 6. The Court also has supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

15 7. Venue is proper within this district pursuant to 28 U.S.C. § 1391 in that Defendant  
16 conducts business here and is subject to personal jurisdiction in this district. Furthermore,  
17 Defendant sells, markets, and/or distributes Roundup within the Eastern District of Washington.  
18 Also, a substantial part of the acts and/or omissions giving rise to these claims occurred within this  
19 district.

## 20 **III. PARTIES**

21 8. Plaintiff Lindeblad is over the age of eighteen and is a resident and citizen of  
22 Spokane County, Washington.

23 9. Plaintiff brings this action for injuries he sustained by exposure to Roundup  
24 containing the active ingredient glyphosate and the surfactant POEA. As a direct and proximate  
25 result of being exposed to Roundup, Plaintiff developed non-Hodgkin's lymphoma ("NHL").

26 10. "Roundup" refers to all formulations of Defendant's Roundup products, including,  
27 but not limited to, Roundup Concentrate Poison Ivy and Tough Brush Killer 1, Roundup Custom  
28 Herbicide, Roundup D-Pak herbicide, Roundup Dry Concentrate, Roundup Export Herbicide,

1 Roundup Fence & Hard Edger 1, Roundup Garden Foam Weed & Grass Killer, Roundup Grass and  
2 Weed Killer, Roundup Herbicide, Roundup Original 2k herbicide, Roundup Original II Herbicide,  
3 Roundup Pro Concentrate, Roundup Prodry Herbicide, Roundup Promax, Roundup Quik Stik Grass  
4 and Weed Killer, Roundup Quikpro Herbicide, Roundup Rainfast Concentrate Weed & Grass  
5 Killer, Roundup Rainfast Super Concentrate Weed & Grass Killer, Roundup Ready-to-Use  
6 Extended Control Weed & Grass Killer 1 Plus Weed Preventer, Roundup Ready-to-Use Weed &  
7 Grass Killer, Roundup Ready-to-Use Weed and Grass Killer 2, Roundup Ultra Dry, Roundup Ultra  
8 Herbicide, Roundup Ultramax, Roundup VM Herbicide, Roundup Weed & Grass Killer  
9 Concentrate, Roundup Weed & Grass Killer Concentrate Plus, Roundup Weed & Grass killer  
10 Ready-to-Use Plus, Roundup Weed & Grass Killer Super Concentrate, Roundup Weed & Grass  
11 Killer1 Ready-to-Use, Roundup WSD Water Soluble Dry Herbicide Deploy Dry Herbicide, or any  
12 other formulation of containing the active ingredient glyphosate.

13 11. Defendant Monsanto is incorporated in the state of Delaware, with a principal place  
14 of business in St. Louis, Missouri.

15 12. Defendant advertises and sells goods, specifically Roundup, throughout the United  
16 States, including in Washington.

17 13. Defendant transacted and conducted business within the State of Washington that  
18 relates to the allegations in this Complaint.

19 14. Defendant derived substantial revenue from goods and products used in the State of  
20 Washington.

21 15. Defendant expected or should have expected its acts to have consequences within  
22 the State of Washington, and derived substantial revenue from interstate commerce.

23 16. Defendant engaged in the business of designing, developing, manufacturing, testing,  
24 packaging, marketing, distributing, labeling, and/or selling Roundup.

25 17. Defendant is authorized to do business in the State of Washington and derives  
26 substantial income from doing business in this state.

27 18. Defendant purposefully availed itself of the privilege of conducting activities with  
28 the State of Washington, thus invoking the benefits and protections of its laws.

1           19. Defendant designed, sold, advertised, manufactured and/or distributed Roundup,  
2 with full knowledge of its dangerous and defective nature.

3   **IV. FACTUAL ALLEGATIONS**

4           20. Plaintiff repeats, reiterates, and re-alleges each and every allegation of this  
5 Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect  
6 as if more fully set forth herein.

7           21. At all relevant times, Defendant was in the business of, and did, design, research,  
8 manufacture, test, advertise, promote, market, sell and distribute the commercial herbicide  
9 Roundup.

10          22. Monsanto is a multinational agricultural biotechnology corporation based in  
11 St. Louis, Missouri. It is the world's leading producer of glyphosate.

12          23. Defendant discovered the herbicidal properties of glyphosate during the 1970s and  
13 subsequently began to design, research, manufacture, sell and distribute glyphosate-based Roundup  
14 as a broad spectrum herbicide.

15          24. Glyphosate is the active ingredient in Roundup.

16          25. Glyphosate is a broad-spectrum herbicide used to kill weeds and grasses known to  
17 compete with commercial crops grown around the globe.

18          26. Glyphosate is a "non-selective" herbicide, meaning it kills indiscriminately based  
19 only on whether a given organism produces a specific enzyme, 5-enolpyruvylshikimic acid-3-  
20 phosphate synthase, known as EPSP synthase.

21          27. Glyphosate inhibits the enzyme 5-enolpyruvylshikimic acid-3-phosphate synthase  
22 that interferes with the shikimic pathway in plants, resulting in the accumulation of shikimic acid in  
23 plant tissue and ultimately plant death.

24          28. Sprayed as a liquid, plants absorb glyphosate directly through their leaves, stems,  
25 and roots, and detectable quantities accumulate in the plant tissues.

26          29. The original Roundup, containing the active ingredient glyphosate, was introduced  
27 in 1974. Today, glyphosate products are among the world's most widely used herbicides.  
28

1           30. Defendant is intimately involved in the development, design, manufacture,  
2 marketing, sale, and/or distribution of genetically modified (“GMO”) crops, many of which are  
3 marketed as being resistant to Roundup i.e., Roundup Ready®. As of 2009, Defendant was the  
4 world’s leading producer of seeds designed to be Roundup Ready. In 2010, an estimated 70% of  
5 corn and cotton, and 90% of soybean fields in the United States contained Roundup Ready seeds.

6           31. Each year approximately 250 million pounds of glyphosate are sprayed on crops,  
7 commercial nurseries, suburban lawns, parks, and golf courses. This increase in use has been  
8 driven largely by the proliferation of genetically engineered crops, crops specifically tailored to  
9 resist the activity of glyphosate.

10          32. For nearly 40 years, consumers, farmers, and the general public, including Plaintiff,  
11 have used Roundup, unaware of its carcinogenic properties.

12                   **REGISTRATION OF HERBICIDES UNDER FEDERAL LAW**

13          33. The manufacture, formulation and distribution of herbicides, such as Roundup, are  
14 regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C.  
15 § 136 et seq. FIFRA requires that all pesticides be registered with the Environmental Protection  
16 Agency (“EPA) prior to their distribution, sale, or use, except as described by FIFRA 7 U.S.C.  
17 § 136a(a).

18          34. The EPA requires as part of the registration process, among other requirements, a  
19 variety of tests to evaluate the potential for exposure to pesticides, toxicity to people and other  
20 potential non-target organisms, and other adverse effects on the environment. Registration by the  
21 EPA, however, is not an assurance or finding of safety. The determination the EPA makes in  
22 registering or re-registering a product is not that the product is “safe,” but rather that use of the  
23 product in accordance with its label directions “will not generally cause unreasonable adverse  
24 effects on the environment.” 7 U.S.C. § 136(a)(c)(5)(D).

25          35. FIFRA defines “unreasonable adverse effects on the environment” to mean “any  
26 unreasonable risk to man or the environment, taking into account the economic, social, and  
27 environmental costs and benefits of the use of any pesticide.” 7 U.S.C. § 136(bb). FIFRA thus  
28

1 requires the EPA to make a risk/benefit analysis in determining whether a registration should be  
2 granted or allowed to continue to be sold in commerce.

3 36. The EPA and the State of Washington registered Roundup for distribution, sale, and  
4 manufacture in the United States and the State of Washington.

5 37. FIFRA generally requires that the registrant, Monsanto, conduct health and safety  
6 testing of pesticide products. The government is not required, nor is it able, to perform the product  
7 tests that are required of the manufacturer.

8 38.

9 **MONSANTO'S FALSE REPRESENTATIONS**  
10 **REGARDING THE SAFETY OF ROUNDUP**

11 39. In 1996, the New York Attorney General ("NYAG") filed a lawsuit against  
12 Monsanto based on its false and misleading advertising of Roundup products. Specifically, the  
13 lawsuit challenged Monsanto's general representations that its spray-on glyphosate-based  
14 herbicides, including Roundup, were "safer than table salt" and "practically non-toxic" to  
15 mammals, birds, and fish. Among the representations the NYAG found deceptive and misleading  
16 about the human and environmental safety of Roundup are the following:

- 17 a) Remember that environmentally friendly Roundup herbicide is  
18 biodegradable. It won't build up in the soil so you can use Roundup  
19 with confidence along customers' driveways, sidewalks and fences ...
- 20 b) And remember that Roundup is biodegradable and won't build up in  
21 the soil. That will give you the environmental confidence you need to  
22 use Roundup everywhere you've got a weed, brush, edging or  
23 trimming problem.
- 24 c) Roundup biodegrades into naturally occurring elements.
- 25 d) Remember that versatile Roundup herbicide stays where you put it.  
26 That means there's no washing or leaching to harm customers' shrubs  
27 or other desirable vegetation.
- 28 e) This non-residual herbicide will not wash or leach in the soil. It ...  
stays where you apply it.
- f) You can apply Accord with "confidence because it will stay where you  
put it" it bonds tightly to soil particles, preventing leaching. Then,  
soon after application, soil microorganisms biodegrade into natural  
products.

- 1 g) Glyphosate is less toxic to rats than table salt following acute oral ingestion.
- 2 h) Glyphosate's safety margin is much greater than required. It has over
- 3 a 1,000-fold safety margin in food and over a 700-fold safety margin
- 4 for workers who manufacture it or use it.
- 5 i) You can feel good about using herbicides by Monsanto. They carry a
- 6 toxicity category rating of 'practically non-toxic' as it pertains to
- 7 mammals, birds and fish.
- 8 j) "Roundup can be used where kids and pets will play and breaks down
- 9 into natural material." This ad depicts a person with his head in the
- 10 ground and a pet dog standing in an area which has been treated with
- 11 Roundup.<sup>1</sup>

12 40. On November 19, 1996, Monsanto entered into an Assurance of Discontinuance  
 13 with NYAG, in which Monsanto agreed, among other things, "to cease and desist from publishing  
 14 or broadcasting any advertisements [in New York] that represent, directly or by implication" that:

- 15 a) its glyphosate-containing pesticide products or any component thereof
- 16 are safe, non-toxic, harmless or free from risk.

17 \*\*\*

- 18 b) its glyphosate-containing pesticide products or any component thereof
- 19 manufactured, formulated, distributed or sold by Monsanto are
- 20 biodegradable

21 \*\*\*

- 22 c) its glyphosate-containing pesticide products or any component thereof
- 23 stay where they are applied under all circumstances and will not move
- 24 through the environment by any means.

25 \*\*\*

- 26 d) its glyphosate-containing pesticide products or any component thereof
- 27 are "good" for the environment or are "known for their environmental
- 28 characteristics."

\*\*\*

- e) glyphosate-containing pesticide products or any component thereof are
- safer or less toxic than common consumer products other than
- herbicides;

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<sup>1</sup> Attorney General of the State of New York, In the Matter of Monsanto Company, Assurance of Discontinuance Pursuant to Executive Law § 63(15) (Nov. 1996).

f) its glyphosate-containing products or any component thereof might be classified as “practically non-toxic.”

41. Monsanto did not alter its advertising in the same manner in any state other than New York, and on information and belief still has not done so today.

42. In 2009, France’s highest court ruled that Monsanto had not told the truth about the safety of Roundup. The French court affirmed an earlier judgment that Monsanto had falsely advertised its herbicide Roundup as “biodegradable” and that it “left the soil clean.”<sup>2</sup>

### **EVIDENCE OF CARCINOGENICITY IN ROUNDUP**

43. As early as the 1980s Monsanto was aware of glyphosate’s carcinogenic properties.

44. On March 4, 1985, a group of the Environmental Protection Agency’s (“EPA”) Toxicology Branch published a memorandum classifying glyphosate as a Category C oncogene.<sup>3</sup> Category C oncogenes are possible human carcinogens with limited evidence of carcinogenicity.

45. In 1986, the EPA issued a Registration Standard for glyphosate (NTIS PB87-103214). The Registration standard required additional phytotoxicity, environmental fate, toxicology, product chemistry, and residue chemistry studies. All of the data required was submitted and reviewed and/or waived.

46. In October 1991, the EPA published a Memorandum entitled “Second Peer Review of Glyphosate.” The memorandum changed glyphosate’s classification to Group E (evidence of non-carcinogenicity for humans). Two peer review committee members did not concur with the conclusions of the committee and one member refused to sign.<sup>4</sup>

47. In addition to the toxicity of the active molecule, many studies support the hypothesis that glyphosate formulations found in Defendant’s Roundup products are more

<sup>2</sup> *Monsanto Guilty in ‘False Ad’ Row*, BBC, Oct. 15, 2009, available at <http://news.bbc.co.uk/2/hi/europe/8308903.stm>.

<sup>3</sup> Consensus Review of Glyphosate, Casewell No. 661A. March 4, 1985. United States Environmental Protection Agency.

<sup>4</sup> Second Peer Review of Glyphosate, CAS No. 1071-83-6. October 30, 1991. United States Environmental Protection Agency.



1 dangerous and toxic than glyphosate alone.<sup>5</sup> As early as 1991 evidence existed demonstrating that  
2 glyphosate formulations were significantly more toxic than glyphosate alone.<sup>6</sup>

3 48. In 2002, Julie Marc published a study entitled “Pesticide Roundup Provokes Cell  
4 Division Dysfunction at the Level of CDK1/Cyclin B Activation.”

5 49. The study found that Roundup caused delays in the cell cycles of sea urchins, while  
6 the same concentrations of glyphosate alone proved ineffective and did not alter cell cycles.

7 50. In 2004, Julie Marc published a study entitled “Glyphosate-based pesticides affect  
8 cell cycle regulation.” The study demonstrated a molecular link between glyphosate-based  
9 products and cell cycle dysregulation.

10 51. The study noted that “cell-cycle dysregulation is a hallmark of tumor cells and  
11 human cancer. Failure in the cell-cycle checkpoints leads to genomic instability and subsequent  
12 development of cancers from the initial affected cell.” Further, “[s]ince cell cycle disorders such as  
13 cancer result from dysfunction of unique cell, it was of interest to evaluate the threshold dose of  
14 glyphosate affecting cells.”<sup>7</sup>

15 52. In 2005, Francisco Peixoto published a study showing that Roundup’s effects on rat  
16 liver mitochondria are much more toxic and harmful than the same concentrations of glyphosate  
17 alone.

18 53. The Peixoto study suggested that the harmful effects of Roundup on mitochondrial  
19 bioenergetics could not be exclusively attributed to glyphosate and could be the result of other  
20 chemicals, namely the surfactant POEA, or alternatively due to the possible synergy between  
21 glyphosate and Roundup formulation products.

22 54. In 2009, Nora Benachour and Gilles-Eric Seralini published a study examining the  
23 effects of Roundup and glyphosate on human umbilical, embryonic, and placental cells.

24 55. The study used dilution levels of Roundup and glyphosate far below agricultural  
25 recommendations, corresponding with low levels of residues in food. The study concluded that  
26 supposed “inert” ingredients, and possibly POEA, change human cell permeability and amplify

27 <sup>5</sup> Martinez et al. 2007; Benachour 2009; Gasnier et al. 2010; Peixoto 2005; Marc 2004.

28 <sup>6</sup> Martinez et al 1991.

<sup>7</sup> Molinari, 2000; Stewart et al., 2003.

1 toxicity of glyphosate alone. The study further suggested that determinations of glyphosate toxicity  
2 should take into account the presence of adjuvants, or those chemicals used in the formulation of  
3 the complete pesticide. The study confirmed that the adjuvants in Roundup are not inert and that  
4 Roundup is always more toxic than its active ingredient glyphosate.

5 56. The results of these studies were confirmed in recently published peer-reviewed  
6 studies and were at all times available and/or known to Defendant.

7 57. Defendant knew or should have known that Roundup is more toxic than glyphosate  
8 alone and that safety studies on Roundup, Roundup's adjuvants and "inert" ingredients, and/or the  
9 surfactant POEA were necessary to protect Plaintiff from Roundup.

10 58. Defendant knew or should have known that tests limited to Roundup's active  
11 ingredient glyphosate were insufficient to prove the safety of Roundup.

12 59. Defendant failed to appropriately and adequately test Roundup, Roundup's  
13 adjuvants and "inert" ingredients, and/or the surfactant POEA to protect Plaintiff from Roundup.

14 60. Rather than performing appropriate tests, Defendant relied upon flawed industry-  
15 supported studies designed to protect Defendant's economic interests rather than Plaintiff and the  
16 consuming public.

17 61. Despite possessing knowledge that Roundup was considerably more dangerous than  
18 glyphosate alone, Defendant continued to promote Roundup as safe.

19 **IARC CLASSIFICATION OF GLYPHOSATE**

20 62. The International Agency for Research on Cancer ("IARC") is the specialized  
21 intergovernmental cancer agency the World Health Organization ("WHO") of the United Nations  
22 tasked with conducting and coordinating research into the causes of cancer.

23 63. An IARC Advisory Group to Recommend Priorities for IARC Monographs during  
24 2015–2019 met in April 2014. Though nominations for the review were solicited, a substance must  
25 meet two criteria to be eligible for review by the IARC Monographs: there must already be some  
26 evidence of carcinogenicity of the substance, and there must be evidence that humans are exposed  
27 to the substance.  
28

1           64. IARC set glyphosate for review in 2015-2016. IARC uses five criteria for  
2 determining priority in reviewing chemicals. The substance must have a potential for direct impact  
3 on public health; scientific literature to support suspicion of carcinogenicity; evidence of significant  
4 human exposure; high public interest and/or potential to bring clarity to a controversial area and/or  
5 reduce public anxiety or concern; related agents similar to one given high priority by the above  
6 considerations. Data reviewed is sourced preferably from publicly accessible, peer-reviewed data.

7           65. On March 24, 2015, after its cumulative review of human, animal, and DNA studies  
8 for more than one (1) year, many of which have been in Defendant's possession since as early as  
9 1985, the IARC's working group published its conclusion that the glyphosate contained in  
10 Defendant's Roundup herbicide, is a Class 2A "probable carcinogen" as demonstrated by the  
11 mechanistic evidence of carcinogenicity in humans and sufficient evidence of carcinogenicity in  
12 animals.

13           66. The IARC's full Monograph was published on July 29, 2015 and established  
14 glyphosate as a class 2A probable carcinogen to humans. According to the authors glyphosate  
15 demonstrated sufficient mechanistic evidence (genotoxicity and oxidative stress) to warrant a 2A  
16 classification based on evidence of carcinogenicity in humans and animals.

17           67. The IARC Working Group found an increased risk between exposure to glyphosate  
18 and NHL and several subtypes of NHL, and the increased risk continued after adjustment for other  
19 pesticides.

20           68. The IARC also found that glyphosate caused DNA and chromosomal damage in  
21 human cells.

#### 22                           **EARLIER EVIDENCE OF GLYPHOSATE'S DANGER**

23           69. Despite the new classification by the IARC, Defendant has had ample evidence of  
24 glyphosate and Roundup's genotoxic properties for decades.

25           70. Genotoxicity refers to chemical agents that are capable of damaging the DNA within  
26 a cell through genetic mutations, which is a process that is believed to lead to cancer.

27           71. In 1997, Chris Clements published "Genotoxicity of select herbicides in *Rana*  
28 *catesbeiana* tadpoles using the alkaline single-cell gel DNA electrophoresis (comet) assay."

1           72.     The study found that tadpoles exposed to Roundup showed significant DNA damage  
2 when compared with unexposed control animals.

3           73.     Both human and animal studies have shown that glyphosate and glyphosate-based  
4 formulations such as Roundup can induce oxidative stress.

5           74.     Oxidative stress and associated chronic inflammation are believed to be involved in  
6 carcinogenesis.

7           75.     The IARC Monograph notes that “[s]trong evidence exists that glyphosate, AMPA  
8 and glyphosate-based formulations can induce oxidative stress.”

9           76.     In 2006 César Paz-y-Miño published a study examining DNA damage in human  
10 subjects exposed to glyphosate.

11           77.     The study produced evidence of chromosomal damage in blood cells showing  
12 significantly greater damage after exposure to glyphosate than before in the same individuals,  
13 suggesting that the glyphosate formulation used during aerial spraying had a genotoxic effect on  
14 exposed individuals.

15           78.     The IARC Monograph reflects the volume of evidence of glyphosate pesticides’  
16 genotoxicity noting “[t]he evidence for genotoxicity caused by glyphosate-based formulations is  
17 strong.”

18           79.     Despite knowledge to the contrary, Defendant maintains that there is no evidence  
19 that Roundup is genotoxic, that regulatory authorities and independent experts are in agreement that  
20 Roundup is not genotoxic, and that there is no evidence that Roundup is genotoxic.

21           80.     In addition to glyphosate and Roundup’s genotoxic properties, Defendant has long  
22 been aware of glyphosate’s carcinogenic properties.

23           81.     Glyphosate and Roundup in particular have long been associated with  
24 carcinogenicity and the development of numerous forms of cancer, including, but not limited to,  
25 NHL, Hodgkin’s lymphoma, multiple myeloma, and soft tissue sarcoma.

26           82.     Defendant has known of this association since the early to mid-1980s and numerous  
27 human and animal studies have evidenced the carcinogenicity of glyphosate and/or Roundup.  
28

1           83. In 1985 the EPA studied the effects of glyphosate in mice finding a dose related  
2 response in male mice linked to renal tubal adenomas, a rare tumor. The study concluded the  
3 glyphosate was oncogenic.

4           84. In 2003 Lennart Hardell and Mikael Eriksson published the results of two case  
5 controlled studies on pesticides as a risk factor for NHL and hairy cell leukemia.

6           85. The study concluded that glyphosate had the most significant relationship to NHL  
7 among all herbicides studies with an increased odds ratio of 3.11.

8           86. In 2003 AJ De Roos published a study examining the pooled data of mid-western  
9 farmers, examining pesticides and herbicides as risk factors for NHL.

10          87. The study, which controlled for potential confounders, found a relationship between  
11 increased NHL incidence and glyphosate.

12          88. In 2008 Mikael Eriksson published a study a population based case-control study of  
13 exposure to various pesticides as a risk factor for NHL.

14          89. This strengthened previous associations between glyphosate and NHL.

15          90. In spite of this knowledge, Defendant continued to issue broad and sweeping  
16 statements suggesting that Roundup was, and is, safer than ordinary household items such as table  
17 salt, despite a lack of scientific support for the accuracy and validity of these statements and, in  
18 fact, voluminous evidence to the contrary.

19          91. Upon information and belief, these statements and representations have been made  
20 with the intent of inducing Plaintiff and the public at large to purchase, and increase the use of,  
21 Roundup for Defendant's pecuniary gain, and in fact did induce Plaintiff to use Roundup.

22          92. Defendant made these statements with complete disregard and reckless indifference  
23 to the safety of Plaintiff and the general public.

24          93. Notwithstanding Defendant's representations, scientific evidence has established a  
25 clear association between glyphosate and genotoxicity, inflammation, and an increased risk of  
26 many cancers, including, but not limited to, NHL, multiple myeloma, and soft tissue sarcoma.  
27  
28

1           94. Defendant knew or should have known that glyphosate is associated with an  
2 increased risk of developing cancer, including, but not limited to, NHL, multiple myeloma, and soft  
3 tissue sarcomas.

4           95. Defendant failed to appropriately and adequately inform and warn Plaintiff of the  
5 serious and dangerous risks associated with the use of and exposure to glyphosate and/or Roundup,  
6 including, but not limited to, the risk of developing NHL, as well as other severe and personal  
7 injuries, which are permanent and/or long-lasting in nature, cause significant physical pain and  
8 mental anguish, diminished enjoyment of life, and the need for medical treatment, monitoring  
9 and/or medications.

10           96. Despite the IARC's classification of glyphosate as a class 2A probable carcinogen,  
11 Defendant continues to maintain that glyphosate and/or Roundup is safe, non-carcinogenic, non-  
12 genotoxic, and falsely warrant to users and the general public that independent experts and  
13 regulatory agencies agree that there is no evidence of carcinogenicity or genotoxicity in glyphosate  
14 and Roundup.

15           97. Defendant has claimed and continues to claim that Roundup is safe, non-  
16 carcinogenic, and non-genotoxic.

17           98. Glyphosate, and Roundup products in particular, have long been associated with  
18 serious side effects and many regulatory agencies around the globe have banned or are currently  
19 banning the use of glyphosate herbicide products.

20           99. Defendant's statements proclaiming the safety of Roundup and disregarding its  
21 dangers misled Plaintiff.

22           100. Despite Defendant's knowledge that Roundup was associated with an elevated risk  
23 of developing cancer, Defendant's promotional campaigns focused on Roundup's purported "safety  
24 profile."

25           101. Defendant's failure to adequately warn Plaintiff resulted in (1) Plaintiff using and  
26 being exposed to glyphosate instead of using another acceptable and safe method of controlling  
27 unwanted weeds and pests; and (2) scientists and physicians failing to warn and instruct consumers  
28 about the risk of cancer, including NHL, and other injuries associated with Roundup.

1           102. Defendant failed to seek modification of the labeling of Roundup to include relevant  
2 information regarding the risks and dangers associated with Roundup exposure.

3           103. The failure of Defendant to appropriately warn and inform the EPA has resulted in  
4 inadequate warnings in safety information presented directly to users and consumers.

5           104. The failure of Defendant to appropriately warn and inform the EPA has resulted in  
6 the absence of warning or caution statements that are adequate to protect health and the  
7 environment.

8           105. The failure of Defendant to appropriately warn and inform the EPA has resulted in  
9 the directions for use that are not adequate to protect health and the environment.

10           106. By reason of the foregoing acts and omissions, Plaintiff seeks compensatory  
11 damages as a result of Plaintiff's use of, and exposure to, Roundup which caused or was a  
12 substantial contributing factor in causing Plaintiff to suffer from cancer, specifically NHL, and  
13 Plaintiff suffered severe and personal injuries which are permanent and lasting in nature, physical  
14 pain and mental anguish, including diminished enjoyment of life.

15           107. By reason of the foregoing, Plaintiff was severely and permanently injured.

16           108. By reason of the foregoing acts and omissions, Plaintiff has endured and, in some  
17 categories continues to suffer, emotional and mental anguish, medical expenses, and other  
18 economic and non-economic damages, as a result of the actions and inactions of Defendant.

19                           **PLAINTIFF'S EXPOSURE TO ROUNDUP**

20           109. Beginning in the 1970s, and continuing for decades, Plaintiff sprayed Roundup on a  
21 regular basis.

22           110. Plaintiff was diagnosed with NHL in 1999, and has subsequently undergone  
23 treatment.

24           111. Plaintiff developed NHL as a result of his exposure to Roundup product. As a result  
25 of his injury, Plaintiff incurred significant economic and non-economic damages.

**EQUITABLE TOLLING OF APPLICABLE STATUTE OF LIMITATIONS**

112. Plaintiff repeats, reiterates, and re-alleges each and every allegation of this Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more fully set forth herein.

113. The running of any statute of limitations has been tolled by reason of Defendant's fraudulent concealment. Defendant, through affirmative misrepresentations and omissions, actively concealed from Plaintiff the true risks associated with Roundup and glyphosate.

114. At all relevant times, Defendant has maintained that Roundup is safe, non-toxic, and non-carcinogenic.

115. As a result of Defendant's actions, Plaintiff was unaware, and could not reasonably have known or have learned through reasonable diligence, that Roundup and/or glyphosate contact exposed him to the risks alleged herein and that those risks were the direct and proximate result of Defendant's acts and omissions.

116. Furthermore, Defendant is estopped from relying on any statute of limitations because of its fraudulent concealment of the true character, quality and nature of Roundup. Defendant was under a duty to disclose the true character, quality, and nature of Roundup because this was non-public information over which Defendant had and continues to have exclusive control, and because Defendant knew that this information was not available to Plaintiff or to distributors of Roundup. In addition, Defendant is estopped from relying on any statute of limitations because of their intentional concealment of these facts.

117. Plaintiff had no knowledge that Defendant was engaged in the wrongdoing alleged herein. Because of the fraudulent acts of concealment of wrongdoing by Defendant, Plaintiff could not have reasonably discovered the wrongdoing at any time prior. Also, the economics of this fraud should be considered. Defendant had the ability to and did spend enormous amounts of money in furtherance of its purpose of marketing, promoting and/or distributing a profitable herbicide, notwithstanding the known or reasonably known risks. Plaintiff and medical professionals could not have afforded and could not have possibly conducted studies to determine the nature, extent, and identity of related health risks, and were forced to rely on only the Defendant's representations.



1 Accordingly, Defendant is precluded by the discovery rule and/or the doctrine of fraudulent  
2 concealment from relying upon any statute of limitations.

3 **V. CLAIMS FOR RELIEF**

4 118. Plaintiff repeats, reiterates, and re-alleges each and every allegation of this  
5 Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect  
6 as if more fully set forth herein.

7 **FIRST CLAIM FOR RELIEF**  
8 **(NEGLIGENCE)**

9 119. Plaintiff repeats, reiterates, and re-alleges each and every allegation of this  
10 Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect  
11 as if more fully set forth herein.

12 120. Defendant had a duty to exercise reasonable care in the designing, researching,  
13 testing, manufacturing, marketing, supplying, promoting, packaging, sale, and/or distribution of  
14 Roundup into the stream of commerce, including a duty to assure that the product would not cause  
15 users to suffer unreasonable, dangerous side effects.

16 121. Defendant failed to exercise ordinary care in the designing, researching, testing,  
17 manufacturing, marketing, supplying, promoting, packaging, sale, testing, quality assurance, quality  
18 control, and/or distribution of Roundup into interstate commerce in that Defendant knew or should  
19 have known that using Roundup created a high risk of unreasonable, dangerous side effects,  
20 including, but not limited to, the development of NHL, as well as other severe and personal injuries  
21 which are permanent and lasting in nature, physical pain and mental anguish, including diminished  
22 enjoyment of life, as well as need for lifelong medical treatment, monitoring, and/or medications.

23 122. The negligence by Defendant, its agents, servants, and/or employees, included but  
24 was not limited to the following acts and/or omissions:

- 25 a) Manufacturing, producing, promoting, formulating, creating, and/or  
26 designing Roundup without thoroughly testing it;  
27 b) Failing to test Roundup and/or failing to adequately, sufficiently, and  
28 properly test Roundup;

- c) Not conducting sufficient testing programs to determine whether or not Roundup was safe for use; in that Defendant knew or should have known that Roundup was unsafe and unfit for use by reason of the dangers to its users;
- d) Not conducting sufficient testing programs and studies to determine Roundup's carcinogenic properties even after Defendant had knowledge that Roundup is, was, or could be carcinogenic;
- e) Failing to conduct sufficient testing programs to determine the safety of "inert" ingredients and/or adjuvants contained within Roundup, and the propensity of these ingredients to render Roundup toxic, increase the toxicity of Roundup, whether these ingredients are carcinogenic, magnify the carcinogenic properties of Roundup, and whether or not "inert" ingredients and/or adjuvants were safe for use;
- f) Negligently failing to adequately and correctly warn Plaintiff, the public, the medical and agricultural professions, and the EPA of the dangers of Roundup;
- g) Negligently failing to petition the EPA to strength the warnings associated with Roundup;
- h) Failing to provide adequate cautions and warnings to protect the health of users, handlers, applicators, and persons who would reasonably and foreseeably come into contact with Roundup;
- i) Negligently marketing, advertising, and recommending the use of Roundup without sufficient knowledge as to its dangerous propensities;
- j) Negligently representing that Roundup was safe for use for its intended purpose, and/or that Roundup was safer than ordinary and common items such as table salt, when, in fact, it was unsafe;
- k) Negligently representing that Roundup had equivalent safety and efficacy as other forms of herbicides;
- l) Negligently designing Roundup in a manner, which was dangerous to its users;
- m) Negligently manufacturing Roundup in a manner, which was dangerous to its users;
- n) Negligently producing Roundup in a manner, which was dangerous to its users;
- o) Negligently formulating Roundup in a manner, which was dangerous to its users;
- p) Concealing information from Plaintiff while knowing that Roundup was unsafe, dangerous, and/or non-conforming with EPA regulations;

1 q) Improperly concealing and/or misrepresenting information from  
2 Plaintiff, scientific and medical professionals, and/or the EPA,  
3 concerning the severity of risks and dangers of Roundup compared to  
4 other forms of herbicides; and

5 r) Negligently selling Roundup with a false and misleading label.

6 123. Defendant under-reported, underestimated, and downplayed the serious dangers of  
7 Roundup.

8 124. Defendant negligently and deceptively compared the safety risks and/or dangers of  
9 Roundup with common everyday foods such as table salt, and other forms of herbicides.

10 125. Defendant was negligent and/or violated Washington law in the designing,  
11 researching, supplying, manufacturing, promoting, packaging, distributing, testing, advertising,  
12 warning, marketing, and selling of Roundup in that it:

13 a) Failed to use ordinary care in designing and manufacturing Roundup  
14 so as to avoid the aforementioned risks to individuals when Roundup  
15 was used as an herbicide;

16 b) Failed to accompany their product with proper and/or accurate  
17 warnings regarding all possible adverse side effects associated with the  
18 use of Roundup;

19 c) Failed to accompany their product with proper warnings regarding all  
20 possible adverse side effects concerning the failure and/or malfunction  
21 of Roundup;

22 d) Failed to accompany their product with accurate warnings regarding  
23 the risks of all possible adverse side effects concerning Roundup;

24 e) Failed to warn Plaintiff of the severity and duration of such adverse  
25 effects, as the warnings given did not accurately reflect the symptoms,  
26 or severity of the side effects including, but not limited to, the  
27 development of NHL;

28 f) Failed to conduct adequate testing, clinical testing and post-marketing  
surveillance to determine the safety of Roundup;

g) Failed to conduct adequate testing, clinical testing, and post-marketing  
surveillance to determine the safety of Roundup's "inert" ingredients  
and/or adjuvants;

h) Negligently misrepresented the evidence of Roundup's genotoxicity  
and carcinogenicity; and

i) Was otherwise careless and/or negligent.

1           126. Despite the fact that Defendant knew or should have known that Roundup caused, or  
2 could cause, unreasonably dangerous side effects, Defendant continued and continue to market,  
3 manufacture, distribute, and/or sell Roundup to consumers, including to Plaintiff.

4           127. Defendant knew or should have known that consumers such as Plaintiff would  
5 foreseeably suffer injury as a result of Defendant's failure to exercise ordinary care, as set forth  
6 above.

7           128. Defendant's violations of law and/or negligence were the proximate cause of  
8 Plaintiff's injuries, harm and economic loss, which Plaintiff suffered and/or will continue to suffer.

9           129. As a result of the foregoing acts and omissions, Plaintiff suffered from serious and  
10 dangerous side effects including, but not limited to, NHL, as well as other severe and personal  
11 injuries which are permanent and lasting in nature, physical pain and mental anguish, diminished  
12 enjoyment of life, and financial expenses for hospitalization and medical care. Further, Plaintiff  
13 suffered life-threatening NHL, and severe personal injuries, which are permanent and lasting in  
14 nature, physical pain and mental anguish, including diminished enjoyment of life.

15           130. WHEREFORE, Plaintiff respectfully request that this Court enter judgment in  
16 Plaintiff's favor for compensatory and punitive damages, together with interest, costs herein  
17 incurred, attorneys' fees and all relief as this Court deems just and proper.

18                                   **SECOND CLAIM FOR RELIEF**  
19                                   **(STRICT PRODUCTS LIABILITY—DESIGN DEFECT)**

20           131. Plaintiff repeats, reiterates and, re-alleges each and every allegation of this  
21 Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect  
22 as if more fully set forth herein.

23           132. At all times herein mentioned, Defendant designed, researched, manufactured,  
24 tested, advertised, promoted, sold, distributed, and/or had acquired the entity who has designed,  
25 researched, tested, advertised, promoted, marketed, sold, and distributed Roundup as hereinabove  
26 described that was used by Plaintiff.  
27  
28

1           133. Defendant's Roundup was expected to and did reach the usual consumers, handlers,  
2 and persons coming into contact with said product without substantial change in the condition in  
3 which it was produced, manufactured, sold, distributed, and marketed by the Defendant.

4           134. At those times, Roundup was in an unsafe, defective, and inherently dangerous  
5 condition, which was dangerous to users, and in particular, Plaintiff.

6           135. The Roundup designed, researched, manufactured, tested, advertised, promoted,  
7 marketed, sold, and distributed by Defendant was defective in design or formulation in that, when it  
8 left the hands of the manufacturer and/or suppliers, the foreseeable risks exceeded the benefits  
9 associated with the design or formulation of Roundup.

10           136. The Roundup designed, researched, manufactured, tested, advertised, promoted,  
11 marketed, sold, and distributed by Defendant was defective in design and/or formulation, in that,  
12 when it left the hands of the Defendant's manufacturer and/or supplier, it was unreasonably  
13 dangerous, unreasonably dangerous in normal use, and it was more dangerous than an ordinary  
14 consumer would expect.

15           137. At all times herein mentioned, Roundup was in a defective condition and unsafe, and  
16 Defendant knew or had reason to know that said product was defective and unsafe, especially when  
17 used in the form and manner as provided by Defendant. In particular, Roundup was defective in the  
18 following ways:

- 19           a) When placed in the stream of commerce, Roundup Products were  
20           defective in design and formulation and, consequently, dangerous to  
21           an extent beyond that which an ordinary consumer would anticipate.
- 22           b) When placed in the stream of commerce, Roundup products were  
23           unreasonably dangerous in that they were hazardous and posed a grave  
24           risk of cancer and other serious illnesses when used in a reasonably  
25           anticipated manner.
- 26           c) When placed in the stream of commerce, Roundup products contained  
27           unreasonably dangerous design defects and were not reasonably safe  
28           when used in a reasonably anticipated manner.
- d) Defendant did not sufficiently test, investigate, or study its Roundup  
            products.
- e) Exposure to Roundup presents a risk of harmful side effects that  
            outweigh any potential utility stemming from the use of the herbicide.

1 f) Defendant knew or should have known at the time of marketing its  
2 Roundup products that exposure to Roundup and could result in cancer  
and other severe illnesses and injuries.

3 g) Defendant did not conduct adequate post-marketing surveillance of its  
4 Roundup products.

5 138. Defendant knew, or should have known that at all times herein mentioned its  
6 Roundup was in a defective condition, and was and is inherently dangerous and unsafe.

7 139. Plaintiff was exposed to Roundup, as described above, without knowledge of  
8 Roundup's dangerous characteristics.

9 140. At the time of Plaintiff's use of and exposure to Roundup, Roundup was being used  
10 for the purposes and in a manner normally intended, as a broad-spectrum herbicide.

11 141. Defendant with this knowledge voluntarily designed its Roundup with a dangerous  
12 condition for use by the public, and in particular Plaintiff.

13 142. Defendant had a duty to create a product that was not unreasonably dangerous for its  
14 normal, intended use.

15 143. Defendant created a product that was and is unreasonably dangerous for its normal,  
16 intended use.

17 144. Defendant marketed and promoted a product in such a manner so as to make it  
18 inherently defective as the product downplayed its suspected, probable, and established health risks  
19 inherent with its normal, intended use.

20 145. The Roundup designed, researched, manufactured, tested, advertised, promoted,  
21 marketed, sold, and distributed by Defendant was manufactured defectively in that Roundup left the  
22 hands of Defendant in a defective condition and was unreasonably dangerous to its intended users.

23 146. The Roundup designed, researched, manufactured, tested, advertised, promoted,  
24 marketed, sold, and distributed by Defendant reached their intended users in the same defective and  
25 unreasonably dangerous condition in which the Defendant's Roundup was manufactured.

26 147. Defendant designed, researched, manufactured, tested, advertised, promoted,  
27 marketed, sold, and distributed a defective product, which created an unreasonable risk to the health  
28 of consumers and to Plaintiff in particular, and Defendant is therefore strictly liable for the injuries  
sustained by Plaintiff.



1 including Plaintiff, without any substantial change in the condition of the product from when it was  
2 initially distributed by Defendant.

3 157. At the time of manufacture, Defendant could have provided the warnings or  
4 instructions regarding the full and complete risks of Roundup and glyphosate-containing products  
5 because it knew or should have known of the unreasonable risks of harm associated with the use of  
6 and/or exposure to such products.

7 158. At all times herein mentioned, the aforesaid product was defective and unsafe in  
8 manufacture such that it was unreasonably dangerous to the user, and was so at the time it was  
9 distributed by Defendant and at the time Plaintiff was exposed to and/or ingested the product. The  
10 defective condition of Roundup was due in part to the fact that it was not accompanied by proper  
11 warnings regarding its carcinogenic qualities and possible side effects, including, but not limited to,  
12 developing NHL as a result of exposure and use.

13 159. Roundup did not contain a warning or caution statement, which was necessary and,  
14 if complied with, was adequate to protect health those exposed in violation of 7 U.S.C.  
15 § 136j(a)(1)(E).

16 160. Defendant's failure to include a warning or caution statement which was necessary  
17 and, if complied with, was adequate to protect the health of those exposed, violated 7 U.S.C.  
18 § 136j(a)(1)(E) as well as the laws of the State of Washington.

19 161. Defendant could have amended the label of Roundup to provide additional warnings.

20 162. This defect caused serious injury to Plaintiff, who used Roundup in its intended and  
21 foreseeable manner.

22 163. At all times herein mentioned, Defendant had a duty to properly design,  
23 manufacture, compound, test, inspect, package, label, distribute, market, examine, maintain supply,  
24 provide proper warnings, and take such steps to assure that the product did not cause users to suffer  
25 from unreasonable and dangerous side effects.

26 164. Defendant labeled, distributed, and promoted the aforesaid product that it was  
27 dangerous and unsafe for the use and purpose for which it was intended.  
28



1           165. Defendant failed to warn of the nature and scope of the side effects associated with  
2 Roundup, namely its carcinogenic properties and its propensity to cause or serve as a substantial  
3 contributing factor in the development of NHL.

4           166. Defendant was aware of the probable consequences of the aforesaid conduct.  
5 Despite the fact that Defendant knew or should have known that Roundup caused serious injuries,  
6 Defendant failed to exercise reasonable care to warn of the dangerous carcinogenic properties and  
7 side effect of developing NHL from Roundup exposure, even though these side effects were known  
8 or reasonably scientifically knowable at the time of distribution. Defendant willfully and  
9 deliberately failed to avoid the consequences associated with their failure to warn, and in doing so,  
10 Defendant acted with a conscious disregard for the safety of Plaintiff.

11           167. At the time of exposure, Plaintiff could not have reasonably discovered any defect in  
12 Roundup prior through the exercise of reasonable care.

13           168. Defendant, as the manufacturer and/or distributor of the subject product, is held to  
14 the level of knowledge of an expert in the field.

15           169. Plaintiff reasonably relied upon the skill, superior knowledge, and judgment of  
16 Defendant.

17           170. Had Defendant properly disclosed the risks associated with Roundup, Plaintiff  
18 would have avoided the risk of NHL by not using Roundup.

19           171. The information that Defendant did provide or communicate failed to contain  
20 adequate warnings and precautions that would have enabled Plaintiff, and similarly situated  
21 individuals, to utilize the product safely and with adequate protection. Instead, Defendant  
22 disseminated information that was inaccurate, false, and misleading and which failed to  
23 communicate accurately or adequately the comparative severity, duration, and extent of the risk of  
24 injuries associated with use of and/or exposure to Roundup and glyphosate; continued to promote  
25 the efficacy of Roundup, even after it knew or should have known of the unreasonable risks from  
26 use or exposure; and concealed, downplayed, or otherwise suppressed, through aggressive  
27 marketing and promotion, any information or research about the risks and dangers of exposure to  
28 Roundup and glyphosate.

1 172. To this day, Defendant has failed to adequately warn of the true risks of Plaintiff's  
2 injuries associated with the use of and exposure to Roundup.

3 173. As a result of their inadequate warnings, Roundup was defective and unreasonably  
4 dangerous when it left the possession and/or control of Defendant, were distributed by Defendant,  
5 and used by Plaintiff.

6 174. As a direct and proximate result of Defendant's actions as alleged herein, and in  
7 such other ways to be later shown, the subject product caused Plaintiff to sustain injuries herein  
8 alleged.

9 175. WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in  
10 Plaintiff's favor for compensatory and punitive damages, together with interest, costs herein  
11 incurred, attorneys' fees and all relief as this Court deems just and proper.

12 **FOURTH CLAIM FOR RELIEF**  
13 **(BREACH OF IMPLIED WARRANTIES)**

14 176. Plaintiff repeats, reiterates, and re-alleges each and every allegation of this  
15 Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect  
16 all if more fully set forth herein.

17 177. At all times herein mentioned, Defendant manufactured, distributed, compounded,  
18 recommended, merchandized, advertised, promoted, and sold Roundup and/or has acquired the  
19 entity who manufactured, compound portrayed, distributed, recommended, merchandized,  
20 advertised, promoted, and sold Roundup, as a broad spectrum herbicide. These actions were under  
21 the ultimate control and supervision of Defendant.

22 178. At the time Defendant marketed, sold, and distributed Roundup for use by Plaintiff,  
23 Defendant knew of Roundup's intended use and impliedly warranted the product to be or  
24 merchantable quality and safe and fit for this use.

25 179. The Defendant impliedly represented and warranted to Plaintiff and users of  
26 Roundup, the agricultural community, and/or the EPA that Roundup was safe and of merchantable  
27 quality and fit for the ordinary purpose for which it was to be used.  
28



1           3.       Awarding economic damages in the form of medical expenses, out of pocket  
2 expenses, lost earnings and other economic damages in an amount to be determine at trial of this  
3 action;

4           4.       Punitive and/or exemplary damages for the wanton, willful, fraudulent, and reckless  
5 acts of the Defendant which demonstrated a complete disregard and reckless indifference for the  
6 safety and welfare of the general public and to Plaintiff in an amount sufficient to punish Defendant  
7 and deter future similar conduct, to the extent allowed by applicable law;

8           5.       Pre-judgment interest;

9           6.       Post-judgment interest;

10          7.       Awarding Plaintiff reasonable attorneys' fees;

11          8.       Awarding Plaintiff the costs of these proceedings; and

12          9.       Such other and further relief as this Court deems just and proper.

13                               **DEMAND FOR JURY TRIAL**

14          Plaintiff hereby demands trial by jury as to all issues.

15  
16          Dated: August 3, 2020

ANDRUS ANDERSON LLP

17  
18          By: /s/Jeffrey D. Boyd

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